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**STATE OF MINNESOTA
IN COURT OF APPEALS
A09-2048**

In the Matter of the Welfare of: C. L. A., Child.

**Filed August 24, 2010
Affirmed in part, reversed in part, and remanded
Kalitowski, Judge**

Nicollet County District Court
File Nos. 52-JV-09-52, 52-JV-07-353, 52-JV-08-266, 52-JV-08-358,
52-JV-09-89, 52-JV-09-150, 52-JV-09-152, 52-JV-09-199

David W. Merchant, Chief Appellate Public Defender, Benjamin J. Butler, Assistant Public Defender, St. Paul, Minnesota (for appellant C.L.A.)

Lori Swanson, Attorney General, St. Paul, Minnesota; and

Michael K. Riley, Sr., Nicollet County Attorney, James P. Dunn, Assistant County Attorney, St. Peter, Minnesota (for respondent)

Considered and decided by Kalitowski, Presiding Judge; Wright, Judge; and Bjorkman, Judge.

UNPUBLISHED OPINION

KALITOWSKI, Judge

Appellant C.L.A. challenges the district court's order in this juvenile-delinquency matter, arguing that: (1) the juvenile court erred when it committed appellant to Minnesota Correctional Facility (MCF)-Red Wing because a less-restrictive facility better suited to appellant's needs was available; (2) the court erred by not making findings regarding whether appellant met the admissions criteria for MCF-Red Wing; and

(3) appellant's conviction of fifth-degree assault must be reversed and the case must be remanded to the juvenile court to amend its orders to accurately reflect appellant's conviction of disorderly conduct. We affirm in part, reverse in part, and remand.

DECISION

I.

“In delinquency cases, district courts have broad discretion to order dispositions authorized by statute.” *In re Welfare of J.B.A.*, 581 N.W.2d 37, 38 (Minn. App. 1998), *review denied* (Minn. Aug. 31, 1998). “Absent a clear abuse of that discretion, the disposition will not be disturbed.” *Id.*

Minn. R. Juv. Delinq. P. 15.05, subd. 2(B), requires that any disposition in a juvenile-delinquency case be necessary for rehabilitation, and must serve the child's best interests. Rule 15.05 also requires the district court to make written findings of fact to support its dispositional order. Minn. R. Juv. Delinq. P. 15.05, subd. 2(A). A district court's delinquency disposition must be “the least drastic step necessary to restore law-abiding conduct in the juvenile.” *In re Welfare of M.R.S.*, 400 N.W.2d 147, 151 (Minn. App. 1987). A district court's decision to impose an out-of-home placement must be supported by findings that address five factors: (1) why the disposition serves public safety; (2) why the disposition serves the best interests of the child; (3) what alternative dispositions the court considered and why it rejected them; (4) why the child's present custody is unacceptable; and (5) how the correctional placement is suitable and meets the child's needs. *In re Welfare of J.S.S.*, 610 N.W.2d 364, 366-67 (Minn. App. 2000).

Here, after appellant pleaded guilty to third-degree criminal sexual conduct, disorderly conduct, and terroristic threats, the juvenile court adjudicated him delinquent and issued a dispositional order committing appellant to MCF-Red Wing. Appellant argues that the district court erred by placing him at MCF-Red Wing, because it is not the least-restrictive placement option. Appellant claims that the less-restrictive option of Mille Lacs Academy was available and better suited to appellant's needs, and that the district court's dispositional decision serves neither public safety nor appellant's best interests. We disagree. The record shows that the district court carefully considered all the options and determined that appellant's placement at MCF-Red Wing fulfills the *J.S.S.* factors.

Public Safety

The district court determined that appellant "requires a secure placement. When he has been placed in nonsecure placements, he has only been there for a short time before absconding . . . and/or committing another criminal offense." The record shows that appellant escaped from the Itaskin Juvenile Center. Because Mille Lacs Academy is not a locked facility, the district court determined that appellant's placement at Red Wing best serves public safety; it is a secure correctional facility, and appellant will not be able to run away and commit additional offenses. The district court concluded that placement at Red Wing "is the least restrictive means of restoring [appellant] to lawful conduct." *See M.R.S.*, 400 N.W.2d at 151 (holding that a district court's delinquency disposition must be "the least drastic step necessary to restore law-abiding conduct in the juvenile").

In *J.S.S.*, this court determined that, before ordering out-of-home placement, the district court made sufficient findings as to why the disposition would serve public safety when it considered J.S.S.'s prior offenses of truancy and disorderly conduct, and his tendency to reoffend. 610 N.W.2d at 367. Similarly, here, the district court made findings regarding appellant's offenses, his tendency to reoffend, and his history of absconding. We conclude, therefore, that the district court made sufficient findings to support a public-safety determination.

Best Interests of the Child

Appellant claims that placement at MCF-Red Wing will not serve appellant's best interests because the facility is not prepared to address appellant's mental-health issues or his need for sex-offender treatment. But appellant's guardian ad litem stated, and the record reflects, that MCF-Red Wing serves appellant's needs by offering psychologists, therapists, and a mental health unit. Furthermore, the district court considered a report from a licensed psychologist who interviewed appellant and stated that he should remain in a correctional facility. The psychologist explained, "I do not think that placement within a residential facility for sex offenders would really take care of the primary issues for this individual. The primary issue . . . is the impulsivity." And the county recommended appellant's placement at MCF-Red Wing because he will not accrue additional charges there, and because he has a history of unsuccessful placements at less-restrictive facilities. Appellant has been in and out of detention centers, treatments centers, group homes, foster homes, and other placements since September 2007.

The district court determined that appellant's previous placements "were not successful in resolving [appellant's] issues on a long-term basis," and that appellant "requires a secure placement" due to his history of absconding. Because Mille Lacs Academy is not secure, and because placement at Red Wing offers consistency and structure, as opposed to the "constant changes in his placement" that he had been experiencing, the court determined that placement at Red Wing serves appellant's best interests. Finally, as the district court noted, placement at Red Wing is also in appellant's best interests because it prevents him from committing additional offenses.

Because the district court addressed how appellant's mental-health, stability, treatment needs and risk of recidivism are best served by placement at Red Wing, we conclude that the district court made sufficient findings to support a best-interest determination.

Alternative Dispositions

Appellant claims that the district court erred by not placing him at Mille Lacs Academy, because Mille Lacs Academy was "clearly the best and most appropriate dispositional option." But because the record shows that the district court considered all options presented and made a calculated decision regarding placement, we disagree.

Appellant requested that he be placed at Mille Lacs Academy for a "more thorough sexual evaluation," asserting that his primary issues are mental health issues, not criminal ones. Appellant's parents also expressed concerns that appellant would become more criminally inclined if he were placed at a prison-like facility such as MCF-

Red Wing. A licensed psychologist hired by appellant opined that appellant's most vital need is mental-health services, and recommended placement at Mille Lacs Academy.

But the district court was also presented with the opinions of appellant's guardian ad litem, another psychologist, and the county, all of whom recommended placement at MCF-Red Wing. The district court specifically addressed appellant's proposed alternative, but concluded that it was not suitable for a variety of reasons, including appellant's likelihood of escaping and reoffending. We conclude that the district court made sufficient findings regarding alternative placements.

Present Custody Arrangement

The parties agree that appellant's then-current placement at the River Valley Juvenile Detention Center was not appropriate as a final disposition. But appellant claims that the district court's finding that River Valley was "simply a place to house [appellant] and keep him from re-offending," could also be used as a reason that placement at MCF-Red Wing is unacceptable. This contention is not supported by the record. The district court specifically determined that "[t]here is very little, if any, programming" or treatment available at River Valley. Conversely, the district court found that MCF-Red Wing offers services for mental health, chemical dependency, and behavioral issues, as well as sex-offender treatment and transition services.

Suitability of Correctional Placement

Appellant claims that because of "the tendency of prisons like MCF-Red Wing to further criminalize, not rehabilitate . . . , the correctional placement did not suit appellant's needs." We disagree.

A juvenile-delinquency dispositional order that results in out-of-home placement must be supported by findings stating the reasons the placement facility will suit the needs of the child. *Id.* at 368. “[T]he evidence should reveal the program of a facility and a competent assessment of the child’s needs.” *In re Welfare of L.K.W.*, 372 N.W.2d 392, 400 (Minn. App. 1985). The *J.S.S.* court determined that where the district court “made no findings either at the dispositional hearing or in the written order as to why Sheriff’s Youth Ranch in Austin, Minnesota, was particularly suitable to *J.S.S.*’s rehabilitation needs,” the record was insufficient to support the placement on this factor. 610 N.W.2d at 368. In contrast, here, the district court found that Red Wing was well suited to appellant’s needs because appellant will not be able to reoffend, the facility is secure, and it provides him with the appropriate mental-health services, chemical-dependency and sex-offender treatment, behavioral and consequential services, and transition services. The district court did not abuse its discretion in concluding that all of these factors weigh in favor of placing appellant at MCF-Red Wing.

II.

Appellant claims that the district court erred because it failed to make the statutorily required finding that appellant “meets the established admission criteria for [MCF]-Red Wing.” Minn. Stat. § 260B.199, subd. 1 (2008). We disagree.

The record supports a determination that appellant meets the admissions criteria at MCF-Red Wing.

The admissions criteria for [MCF]-Red Wing shall include a requirement that the county of referral must have considered all appropriate local or regional placements and have

exhausted potential in-state placements in the geographic region. The court must state on the record that this effort was made and placements rejected before ordering a placement or commitment to [MCF]-Red Wing.

Id. Here, the district court found that “[r]easonable efforts were made to prevent the necessity of placing [appellant] at Red Wing, but those efforts were not successful. As set forth above, [appellant] has been placed in numerous other facilities, without success.” Appellant fails to explain how he does not meet the MCF-Red Wing admissions criteria.

III.

Appellant correctly points out that the district court improperly cited his guilty plea for disorderly conduct as a guilty plea for fifth-degree assault in his case file from May 2009. We therefore reverse the conviction of fifth-degree assault and remand this case to the district court for the limited purpose of correcting the court’s order to accurately reflect the adjudications.

Affirmed in part, reversed in part, and remanded.